



**STATE OF NEW JERSEY**

**Board of Public Utilities**

**Two Gateway Center**

**Newark, NJ 07102**

**[www.bpu.state.nj.us](http://www.bpu.state.nj.us)**

CABLE TELEVISION

IN THE MATTER OF THE PETITION OF TIME )  
WARNER ENTERTAINMENT-ADVANCE/ )  
NEWHOUSE PARTNERSHIP RENEWAL OF )  
ITS CERTIFICATE OF APPROVAL TO OWN, )  
OPERATE AND MAINTAIN A CABLE )  
TELEVISION AND CABLE )  
COMMUNICATIONS SYSTEM IN THE )  
BOROUGH OF LEONIA, BERGEN COUNTY, )  
STATE OF NEW JERSEY )

RENEWAL  
CERTIFICATE OF APPROVAL

DOCKET NO. CE00100755

Sokol, Behot and Fiorenzo, Hackensack, New Jersey, by Arthur Bergman, Esq., for the Petitioner.

Borough Clerk, Borough of Leonia, New Jersey, by Frances Lehmann, for the Borough.

BY THE BOARD<sup>1</sup>:

On April 3, 1980, the Board granted Vision Cable Television Company ("Vision"), a Certificate of Approval in Docket No. 89060597 for the operation and maintenance of a cable television system in the Borough of Leonia ("Borough"). On December 20, 1989, the Board granted Vision a Renewal Certificate of Approval in Docket No. CE89060597, for the Borough. On March 13, 1995, the Board approved the transfer of the Certificate of Approval from Vision to Time Warner Entertainment-Advance/Newhouse Partnership ("Petitioner") in Docket No. CM94110531. On January 31, 2001, the Board approved the transfer of the Certificate of Approval to TWFranch-One Co., in Docket No. CM00080556. Although the Petitioner's above referenced Certificate expired on April 3, 2000, it is authorized to continue to provide cable television service to the Borough pursuant to N.J.S.A. 48:5A-25, pending disposition of proceedings regarding the renewal of its Certificate of Approval.

The Petitioner filed an application for the renewal of its municipal consent with the Borough on November 9, 1999, pursuant to N.J.S.A. 48:5A-23 and N.J.A.C. 14:18-13. On or about April 26, 2000, after public hearing, the Borough adopted an ordinance granting renewal municipal consent to the Petitioner for a term of three years. On October 2, 2000, the Petitioner formally rejected the ordinance.

<sup>1</sup> Commissioner Jack Alter did not participate in the deliberations or vote on this matter.

On October 3, 2000, pursuant to N.J.S.A. 48:5A-17(d), the Petitioner filed with the Board for a renewal of its Certificate of Approval for the Borough. The Petitioner alleged that the Borough, by adopting a renewal municipal consent ordinance that was unacceptable to the Petitioner, was arbitrary, capricious and its decision was unsupported by the record. On November 16, 2000, the Borough filed an answer to the petition.

Discussions took place between the parties that culminated in a settlement that resolved the matter. Pursuant to those discussions, the Borough adopted an ordinance granting renewal of its municipal consent on June 24, 2002. On October 28, 2002, the Petitioner accepted the terms and conditions of the ordinance, in accordance with N.J.S.A. 48:5A-24 and noted that the adopted ordinance and the Petitioner's acceptance thereof represented its amended petition for the Borough. However, the Petitioner's letter was not received by the Board until January 22, 2003.

The Board has reviewed the application for municipal consent, the petition and amended petition for a Renewal Certificate of Approval and the municipal consent ordinance. Based upon this review and the recommendation of the Office of Cable Television, the Board **HEREBY FINDS** the following:

1. The Petitioner possesses the requisite legal, character, financial and technical qualifications for the awarding of a Certificate of Approval. Further, these qualifications were reviewed by the Borough in conjunction with the municipal consent process.
2. The design and technical specifications of the system shall ensure that the Petitioner provides safe, adequate and proper service.
3. The Petitioner has represented that all previously required construction within the franchise territory is complete.
4. The franchise period as stated in the ordinance is ten years. The Board finds the duration to be reasonable.
5. The Borough has reserved the right to examine the Petitioner's performance to determine if the Petitioner has met the conditions as stated in the ordinance. If the Borough determines that the Petitioner has not met its commitments, after written notice and a reasonable opportunity to cure, it shall then petition the Board for appropriate action.
6. The Petitioner shall extend service to any residence or business within the Borough at tariffed rates for standard and non-standard installation.
7. The Petitioner's rates shall be regulated and tariffs shall be filed for all services, in accordance with the rules and regulations of the Federal Communications Commission, the Board and the Office of Cable Television. The Petitioner shall maintain informational tariffs for unregulated service rates, and promptly file any revisions thereto.
8. Pursuant to statutory requirements, the ordinance specifies a complaint officer to receive and act upon complaints filed by subscribers in the Borough. In this case, it is the Borough Administrator. All complaints shall be received and processed in accordance

with any applicable rules.

9. The Petitioner shall maintain a local business office or agent for the purpose of receiving, investigating and resolving complaints. The Petitioner currently maintains a local office located at: 200 Roosevelt Place in the Borough of Palisades Park, New Jersey.
10. The franchise fee to be paid to the Borough is specified to be 2% of the Petitioner's gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception service in the Borough, as required by the ordinance. Additional regulatory fees shall be paid to the State in an amount not to exceed 2% of Petitioner's gross operating revenues derived from intrastate operations. The Board finds these fees to be reasonable.
11. The Petitioner shall provide public, educational, and governmental ("PEG") access services and facilities as described in the application. The Petitioner shall provide one PEG access channel which shall be shared with other municipalities. The Petitioner shall maintain a community bulletin board and a studio for producing community access programming.
12. Upon request of the Borough, the Petitioner shall appear before the Mayor and Council, no more frequently than annually unless by mutual consent, to review the Petitioner's performance and to discuss any related issues.
13. The Petitioner shall provide one free installation and basic cable service to all municipally owned facilities, including but not limited to: a) schools; b) firehouses; c) libraries; d) Department of Public Works; e) the Recreation Building; and f) the Borough Annex, provided they are passed by the Petitioner's cable plant.

Based upon these findings, the Board **HEREBY CONCLUDES** that, pursuant to N.J.S.A. 48:5A-17(a) and 28(c), the Petitioner has the municipal consent necessary to support the petition, that such consent and issuance thereof are in conformity with the requirements of N.J.S.A. 48:5A-1 et seq., that the Petitioner has complied or is ready to comply with all applicable rules and regulations imposed by or pursuant to State and federal law as preconditions for engaging in the proposed cable television operations, that the Petitioner has sufficient financial and technical capacity, meets the legal, character and other qualifications necessary to construct, maintain and operate the necessary installations, lines and equipment, and is capable of providing the proposed service in a safe, adequate and proper manner.

Therefore, the Petitioner is **HEREBY ISSUED** this Renewal Certificate of Approval as evidence of Petitioner's authority to construct and operate a cable television system within the entirety of the Borough.

This Certificate is subject to all applicable State and federal laws, the rules and regulations of the Office of Cable Television, and any such lawful terms, conditions and limitations as currently exist or may hereafter be attached to the exercise of the privileges granted herein. The Petitioner shall adhere to the operating standards set forth by the Federal Communications Commission's rules and regulations, 47 C.F.R. §76.1 et seq. including but not limited to, the technical standards 47 C.F.R. §76.601 through §76.630. Any modifications to the provisions thereof shall be incorporated into this Certificate.

Failure to comply with all applicable laws, rules, regulations and orders of the Board or the Office of Cable Television and/or the terms, conditions and limitations set forth herein may constitute sufficient grounds for the suspension or revocation of this Certificate.

This Renewal Certificate is issued on the representation that the statements contained in the Petitioner's applications are true, and the undertakings therein contained shall be adhered to and enforceable unless specific waiver is granted by the Office of Cable Television pursuant to the authority contained in N.J.S.A. 48:5A-1 et seq.

This Certificate shall expire April 3, 2010.

DATED: June 5, 2003

BOARD OF PUBLIC UTILITIES  
BY:

(signed)

\_\_\_\_\_  
JEANNE M. FOX  
PRESIDENT

(signed)

\_\_\_\_\_  
FREDERICK F. BUTLER  
COMMISSIONER

(signed)

\_\_\_\_\_  
CAROL J. MURPHY  
COMMISSIONER

(signed)

\_\_\_\_\_  
CONNIE O. HUGHES  
COMMISSIONER

(signed)

\_\_\_\_\_  
JACK ALTER  
COMMISSIONER

ATTEST:

(signed)

KRISTI IZZO  
SECRETARY